

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)

Brittany S. Scott (State Bar No. 327132)

1990 North California Blvd., Suite 940

Walnut Creek, CA 94596

Telephone: (925) 300-4455

Facsimile: (925) 407-2700

E-mail: ltfisher@bursor.com

bscott@bursor.com

Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN DOE individually and on behalf of all
other persons similarly situated,

Plaintiff,

v.

PHILLIP MORRIS INTERNATIONAL INC.
and SWEDISH MATCH NORTH AMERICA,
LLC,

Defendants.

Case No.

**PLAINTIFF'S ADMINISTRATIVE
MOTION TO PROCEED UNDER A
PSEUDONYM AND [PROPOSED]
ORDER**

1 Plaintiff John Doe (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby moves this Court for an order allowing Plaintiff to proceed with this action with a caption
3 using the pseudonym John Doe and to prosecute this action under this pseudonym.

4 **STATEMENT OF POSITIONS**

5 Pursuant to Local Rule 233(a)(5), Plaintiff could not ascertain the position of Defendants
6 regarding this motion, as Defendants have not yet been served in this matter.

7 **MEMORANDUM IN SUPPORT**

8 This case is a putative class action against Phillip Morris International Inc. and Swedish
9 Match North America, LLC (“Defendants”) for its false and misleading marketing and sales of
10 ZYN oral nicotine pouches. Complaint, ¶¶ 1-11. Oral nicotine pouches are the latest chapter of the
11 tobacco-company playbook, including the playbook of Defendants, to hook adolescents and young
12 adults on nicotine – a highly addictive drug – thereby creating a captured market for nicotine
13 products. *Id.* ¶ 2. Defendants made a targeted effort to push ZYN on adolescents and young adults,
14 emphasizing the ability to use it discretely – “They’re smoke-free, spit-free and hands-free” and
15 “can be used anywhere” without the need for refills or batteries. *Id.* ¶ 9. Moreover, Defendants
16 promoted ZYN through the use of social media influencers, appealing flavors and packaging and
17 an advertising campaign designed to make it appear that using ZYN was fun and cool. *Id.*

18 Plaintiff is an adult citizen of the state of California residing in Rancho Cordova, California.
19 *Id.* ¶ 15. Plaintiff first used ZYN when under the age of eighteen. *Id.* ¶ 120. In or about December
20 2022, when a minor, Plaintiff John Doe purchased and used flavored ZYN – namely, menthol. *Id.*
21 ¶ 123. Plaintiff purchased ZYN from a smoke shop in Rancho Cordova, California. *Id.*

22 Plaintiff brings this action against Defendants under a pseudonym due to the fact that it is
23 involves conduct that occurred when Plaintiff was a minor and, thus, may subject him to ridicule or
24 personal embarrassment.

25 The Ninth Circuit has provided the following guidance:

26 In this circuit, we allow parties to use pseudonyms in the ‘unusual
27 case’ when nondisclosure of the party’s identity ‘is necessary...to
28 protect a person from harassment, injury, ridicule or personal

embarrassment.’...We join our sister circuits and hold that a party may preserve his or her anonymity in judicial proceedings in special circumstances when the party’s need for anonymity outweighs prejudice to the opposing party and the public’s interest in knowing the party’s identity.

See Does I thru XXIII v. Advanced Textile Corp., 214 F.3d 1058, 1067-68 (9th Cir. 2000); *see also Doe v. United Services Life Ins. Co.*, 123 F.R.D. 437 (S.D.N.Y. 1988) (allowing a plaintiff to sue an insurance company anonymously to allow him to keep his sexual orientation private); *Doe v. Deschamps*, 64 F.R.D. 652, 653 (D. Mont. 1974) (permitted plaintiff in abortion suit to use pseudonym due to the personal nature of pregnancy). In light of the facts above, Plaintiff’s need for anonymity outweighs any prejudice to the public in knowing Plaintiff’s identity. (There is no prejudice to Defendants because Plaintiff provided his name to Defendants in his March 22, 2024 demand letter.)

Plaintiff respectfully requests that the Court grant the requested relief at this time and allow Plaintiff to proceed anonymously. For all the reasons stated above, Plaintiff respectfully requests that the Court enter the Proposed Order below.

Dated: April 1, 2024

Respectfully submitted,

BURSOR & FISHER, P.A.

By: /s/ Brittany S. Scott

L. Timothy Fisher (State Bar No. 191626)
 Brittany S. Scott (State Bar No. 327132)
 1990 North California Blvd., Suite 940
 Walnut Creek, CA 94596
 Telephone: (925) 300-4455
 Facsimile: (925) 407-2700
 E-mail: ltfisher@bursor.com
 bscott@bursor.com

Counsel for Plaintiff and the Putative Class

[PROPOSED] ORDER

UPON THE ADMINISTRATIVE MOTION of Plaintiff John Doe, it is hereby ordered:

Plaintiff may proceed with this action using the pseudonym John Doe, and with a caption reflecting that pseudonym.

IT IS SO ORDERED.

Date: _____

United District Court Judge